

Apl'n No. 10/650,038

**REMARKS**

Claims 9-11, 30-32, 35, 40, 43, 53-56, 66-69, 70 and 80-85 are pending in the application. Claims 9-11, 35, 40 and 79-84 have been amended, support for which may be found at least at paragraphs 36, 37, 80, 81 83 and 84, for example, of the publication of the present application. Claim 85 has been added, support for which may be found at least at FIG. 1 and in paragraph 68 of the publication of the present application. No new matter has been introduced as a result of these amendments or additions to the claims.

**Art Rejections**

Claim 35 stands rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,865,829 (*Kitajima*) in view of U.S. Patent No. 6,661,571 (*Shioda*). Claims 79 and 83 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Kitajima* in view of *Shioda*, and further in view of U.S. Patent No. 5,976,502 (*Khoobehi*). Claims 9, 30-31, and 43 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Kitajima* in view of *Shioda*. Claims 10, 11, 53, 54, 56, 66-67, and 69 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Kitajima* in view of *Shioda* and further in view of U.S. Patent No. 6,371,908 (*Furusawa*). Claim 32 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over *Kitajima* in view of *Shioda* and further in view of JP 10325798A (*Imaizumi*). Claims 55 and 68 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Kitajima* in view of *Shioda* and further in view of *Imaizumi*. Claims 80 stands rejected under 35 U.S.C. §103(a) as being unpatentable over *Kitajima* in view of *Shioda*, and further in view of *Khoobehi*. Claims 81 and 82 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Kitajima* in view of *Shioda* and *Furusawa*, and further in view of *Khoobehi*. Claim 40 stands rejected under 35

Apl'n No. 10/650,038

U.S.C. § 103(a) as being unpatentable over WO01/22870 A1 (*Chari*) in view of Kitajima, shioda and U.S. Patent No. 6,721,590 (*Ohishi*).

To expedite prosecution, all pending independent claims (claims 9-11, 35 and 40) have been amended herein, and it is respectfully submitted that these independent claims are patentable over the applied references. In particular, the independent claims have been amended to recite, among other things, steps or structure for storing image data detected during a time duration (or time period) corresponding to a first time series of images of the object (which include a contribution from fluorescence emission), selecting a subset of image data from the stored image data, the subset of image data representing a second time series of images of the object selected from the first time series of images of the object; the second time series of images of the object being fewer in number than the first time series of images of the object, and either displaying a second time series of plural fluorescent images from the stored image data in superposition with a first representation (as in claims 35 and 40) or sequentially displaying plural representations generated from the subset image data in superposition with another representation (as in claims 9-11).

In contrast, none of the applied references, either singly or in combination, disclose the above-noted combination of features. It is noted that the Office has relied on Furusawa in rejecting claims 10 and 11, alleging that Furusawa discloses a video processor 13 (Fig. 1 therein) that is configured to select a subseries from image data based on differences in intensities of the images in the image data and display a composite visible/fluorescence image (Office Action at p. 10, citing col. 7, line 32 – col. 11, line 59). However, this allegation is incorrect. Compared to the presently claimed

Apl'n No. 10/650,038

subject matter, Furusawa does not disclose selecting a second time series of fewer images from a first time series of a greater number of images. Rather, Furusawa discloses selecting *a subset of pixels* within a given image depending upon luminance values of the pixels (Furusawa at col. 11, lines 5-35). The independent claims have been amended to clearly distinguish over this disclosure in Furusawa by reciting that a subset of image data is selected corresponding to a second time series of images from image data corresponding to a first time series of images, wherein the second time series of images is fewer in number than the first time series of images. In other words, the claims reflect selecting fewer frames of plural images from a greater number of frames of plural images. In contrast, Furusawa discloses selecting pixels from an image, not selecting fewer frames of plural images from a greater number of frames of plural images.

Accordingly, even if the applied references were hypothetically combined as suggested by the Office, the hypothetical combination would not meet the combination of features recited in the independent claims. It is also believed that the independent claims are further patentable over the applied references for reasons of record. Accordingly, for at least these reasons, withdrawal of all rejections of record and allowance of the independent claims and the dependent claims that depend therefrom (including new claim 85) are respectfully requested.

#### Request for Further Interview

Should the examiner disagree with the above and believe that the currently pending claims are not patentable over the currently applied art of record, it is

Apl'n No. 10/650,038

respectfully requested that the examiner contact the undersigned for a follow-up interview before issuing another action based on the same art.

Conclusion

All of the rejections having been overcome, it is believed that this application is in condition for allowance and a notice to that effect is solicited. Should the Examiner have any questions with respect to expediting the prosecution of this application, he is urged to contact the undersigned at the number listed below.

Respectfully submitted,

Potomac Patent Group PLLC

By: Krishna Kalidindi  
Krishna Kalidindi  
Registration No. 41,461

P.O. Box 270  
Fredericksburg, VA 22404

Date: 18 June 2008